

REMARKS

Drawing Objections

The Examiner has objected to the drawings, namely, drawing FIG. 1, reference numeral 100, as not mentioned in the written description.

Applicant has amended the written description paragraph beginning at page 13, line 4 to include reference numeral 100 as disclosed in original FIG. 1. Accordingly, the objection to drawing FIG. 1 is now moot.

New Drawing

Applicant has added a new drawing sheet comprising FIG. 9, pursuant to 37 CFR §1.121(d). Applicant has amended the specification paragraphs beginning at page 12, line 4 and at page 12, line 22, pursuant to 37 CFR §1.121(a) to reflect this new drawing figure. The amendment is supported in at least the original specification at page 7, lines 14-23, in the abstract and in at least original claim 70.

Specification Objections

The Examiner has objected to the disclosure at line 8 of page 24 as missing a word.

Applicant has amended the specification beginning at page 24, line 8 to insert the word "ammunition". Accordingly, the objection to the specification is now moot.

Claim Objections

The Examiner has objected to claim 44 as having a semicolon at the end thereof.

Applicant has amended claim 44, changing the semicolon to a period. Accordingly, the objection to claim 44 is now moot.

§112, Paragraph 1, Claim Rejections

The Examiner has rejected claim 33 under 35 U.S.C. §112 as being a single means type claim which covers every conceivable structure while the specification discloses at most only those known to the inventor. The Examiner has rejected claims 34-41 as depending from rejected claim 33.

Applicant respectfully disagrees with the Examiner that claim 33 covers every conceivable structure. As the original specification states on page 7, line 13-23, the present invention is computer-based system, running software. Such discloses the structure for achieving the stated property in claim 33. Indeed, it is well established that claims must be read in light of the specification. See Vitronics Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1582, 39 USPQ2d 1573, 1577 (Fed. Cir. 1996). “Claims must be read in view of the specification, of which they are a part.” Markman v. Westview Instruments, Inc., 52 F.3d 967, 979 (Fed. Cir. 1995). Accordingly, the rejection to claim 33 is without merit.

Notwithstanding, the Applicant has amended claim 33 language to clearly identify that the system comprises software running on a computer as supported in the original specification at page 7, lines 13-23, thereby traversing the rejection.

In view of the amendment to claim 33, the Examiner’s rejection of claims 34-41 is now moot.

The Examiner has rejected claim 42 under 35 U.S.C. §112 as not enabling for execution of the instruction in a computing environment. The Examiner has further rejected claims 43-49 as depending from rejected claim 42.

The Examiner admits that the specification is enabling as to claim 42 for receiving and utilizing. Applicant respectfully disagrees with the Examiner's assertion that claim 42 is not otherwise enabling for execution of the instruction in a computing environment. The specification at page 7, lines 13-23 discloses software operated on a computer. Software is well-known to comprise a series of instructions and Applicant's invention comprises a software program as noted above. Accordingly, the rejection to claim 42 is without merit.

Notwithstanding, the Applicant has amended claim 42 to include a computer and software program, as supported in the original specification at page 7, lines 13-23, thereby traversing the rejection. Applicant has further amended claims 43-49 as to form only. Accordingly, the Examiner's rejection of claims 43-49 as depending from claim 42 is now moot.

The Examiner has rejected claim 51 under 35 U.S.C. §112 as being a single means type claim which covers every conceivable structure while the specification discloses at most only those known to the inventor.

Applicant respectfully disagrees with the Examiner's assertion that claim 51 covers every conceivable structure. Page 7, line 13-23 of the specification discloses that the preferred embodiment is software loaded onto a computer. Accordingly, the rejection of claim 51 is without merit.

Notwithstanding, the Applicant has amended claim 51 language to clearly reflect that Applicant's invention comprises a computer with software running thereon, as supported in the original specification on page 7, lines 13-23, thereby traversing the rejection. Accordingly, the Examiner's rejection of claims 52-59 as depending from claim 51 is now moot.

The Examiner has rejected claim 62 under 35 U.S.C. §112 as being a single means type claim which covers every conceivable structure while the specification discloses at most only those known to the inventor.

The Applicant respectfully directs the Examiner to page 7, line 13-23 of the specification which states the preferred embodiment is software loaded onto a computer. Accordingly, the rejection of claim 62 is without merit.

Notwithstanding, the Applicant has amended claim 62 into to clearly indicate that the software program is running on a computer as supported in the original specification at page 7, line 13-23, thereby traversing the rejection. Accordingly, the Examiner's rejection of claim 63 as depending from claim 62 is now moot.

The Examiner has rejected claim 65 under 35 U.S.C. §112 as being a single means type claim which covers every conceivable structure while the specification discloses at most only those known to the inventor.

Applicant respectfully disagrees with the Examiner's assertion that claim 65 covers every conceivable structure. As the original specification states on page 15, lines 4-9, the ammunition management information system is software that includes the use of structured query language and forms with embedded code having named tables and fields therein for human input. Such discloses the structure for allocating logistics of ammunition based upon training events. Accordingly, the rejection of claim 65 is without merit.

Further, as noted hereinabove, the claims are to be read in light of the specification. Notwithstanding, the Applicant has amended claim 65 language to clarify that the computer-driven software means is actually a computer with software running thereon, as supported in the original specification at page 7, lines 13-23, thereby

traversing the Examiner's rejection of claim 65. Accordingly, the Examiner's rejection of claims 66-69 as depending from claim 65 is now moot.

§112, Paragraph 2, Claim Rejections

The Examiner has rejected claim 1 for failing to point out what is encompassed in the term "computerizing."

Applicant respectfully points the Examiner to page 7, line 13-23 of the specification, which states the preferred embodiment is software running on a computer. Such discloses what is encompassed in the term "computerizing." Nonetheless, the Applicant has amended claim 1 to clarify same as supported in the original specification. Accordingly, the Examiner's rejection of claim 1 is now traversed. Further, the Examiner's rejection of claims 2-12 as depending from claim 1 is now moot.

The Examiner has rejected claim 5 for failing to point out who or what is enacted in "comparing."

Applicant has amended claim 5 to clearly point out that the comparison is done via software, the Applicant's invention being a software program running on a computer, as supported in the original specification at page 7, lines 13-23. Accordingly, the Examiner's rejection of claim 5 is now traversed.

The Examiner has rejected claim 6 "because it is unclear the intent of the adjusting the ammunition allocations to reflect the ammunition requirements and the ammunition inventories."

Applicant respectfully submits that this is clearly disclosed in the original specification at page 15, line 17 through page 16, line 3; page 18, line 17 through page 20, line 10; and page 23, lines 17-21. Accordingly, the Examiner's rejection of

claim 6 is traversed and the Examiner's rejection of claims 7-12 as depending from claim 6 is now moot.

The Examiner has rejected claim 10 because it does not point out who or what is enacted in "distributing" per the specification and because it omits essential steps.

Distributing per the specification on page 16, line 8 means the "physical distribution of ammunition and packaging material." As shown in FIG. 6E and detailed on page 23, line 5-7 and page 24, line 11 of the original specification, "headquarters' logistics organization 190 picks up ammunition products from supplier organization." Accordingly, the specification clearly points out who and what is enacted in "distributing." Further, this claim depends from claim 1 through intervening claims 2, 3, and 6-9, wherein the essential steps are claimed. Nonetheless, the Applicant has amended claim 10 to further clarify it. Thus, the Examiner's rejection of claim 10 is now traversed and the Examiner's rejection of claims 11-12 depending from claim 10 is now moot.

The Examiner has rejected claim 15 because "it is directed to software, non-structural, not associated with in structure of the system" and simply recites software without providing some level of detail about the means to accomplish the function.

Applicant respectfully points the Examiner to page 40, lines 17-20 of the specification, which states "each weapon system has its training publications. Publications usually contain information on ammunition requirements for weapon training events." Further, page 7, line 13-23 of the specification points out that the preferred embodiment is software loaded onto a computer. As such, the computer of the preferred embodiment has stored therein ammunition requirements data. Notwithstanding, the Applicant has amended claim 15 to clearly point out that Applicant's invention comprises a computer running software and that the ammunition requirements are stored in a database as disclosed in the original

specification as noted above, and, thus, further in view of Applicant's amendment to claim 13 as discussed hereinabove, the Examiner's rejection of claim 15 is now traversed. Further, the Examiner's rejection of claims 16-32 depending from claim 15 is now moot.

The Examiner has rejected claim 23 as incomplete for omitting essential steps.

Claim 23 depends ultimately from claim 13 via intervening claims 14-22 and must be read in light of all these claims. Applicant respectfully submits that claim 23 when read in light of claims 13-22 is complete. Notwithstanding, the Applicant has amended claim 23 to include referral to ammunition inventory in the identifying step, and the Examiner's rejection is traversed and the Examiner's rejection of claims 24-32 depending from claim 23 is now moot. Further, ammunition inventory clearly includes different types of ammunition for different uses.

The Examiner has rejected claim 35 because such is directed toward software however the statutory class of the claim is a system as such this claim does not associate the software with a structure as required in the system type claim.

Applicant respectfully points the Examiner to page 7, line 13-23 of the specification, which states the preferred embodiment is software loaded onto a computer. Applicant has amended claim 33 from which claim 35 depends to incorporate such, as noted hereinabove. Applicant has further clarified that it is the software that operates on the database. Accordingly, the Examiners rejection of claim 35 is now traversed. Further, the Examiner's rejection of claims 36-41 depending from claim 35 is now moot.

The Examiner has rejected claim 60 because the claim does not associate the software with a structure.

Applicant respectfully points the Examiner to page 7, line 13-23 of the specification, which states the preferred embodiment is software loaded onto a computer. Applicant has amended claim 60 to incorporate such, thereby traversing the rejection and rendering the Examiner's rejection of claims 61-63 depending from claim 60 moot.

The Examiner has rejected claim 65 as being indefinite.

Applicant has amended claim 65 to clearly point out that the Applicant's invention is a computer with software running thereon as taught in the original specification at page 7, lines 13-23, wherein the computer receives the input of quantified requests, thereby traversing the Examiner's rejection. Further, the Examiner's rejection of claims 66-69 (cited by the Examiner as 64-69) is now moot.

The Examiner has rejected steps c and d of claim 70 because such does not associate the forecasting and software steps with a structure as required in an apparatus type claim.

Applicant respectfully points out to the Examiner that claim 70 is, in fact, an apparatus claim that does not comprise steps. Notwithstanding, the Applicant has amended to clarify the claim as best the Applicant understands what the Examiner considers "steps". If such clarification is not what the Examiner had in mind, the Applicant respectfully requests that the Applicant be given the opportunity to more fully clarify this claim based on further input from the Examiner. Accordingly, the Applicant respectfully submits that the rejection has been traversed and the rejection of claims 71-73 depending from claim 70 is now moot.

The Examiner has rejected claim 74 because it is not clear how the step of consolidating is performed in the apparatus since there is no connection to computer executable code.

Applicant respectfully points the Examiner to page 7, line 13-23 of the original specification, which states the preferred embodiment is software loaded onto a computer. Further, page 15, lines 4-9 of the specification states such software “includes the use of structured query language and forms with embedded code.” Notwithstanding, the Applicant has amended claim 74 to include computer software as supported in the original specification, as noted above. Accordingly, the rejection of claim 74 and all claims 75-79 depending therefrom is now moot.

§101 Claim Rejections

The Examiner has rejected claim 1 under 35 U.S.C. §101 for failing to tie the process to a particular apparatus. The Examiner has also rejected claims 2-12 as depending from a rejected claim.

Applicant respectfully points the Examiner to page 7, line 13-23 of the specification, which states the preferred embodiment is software loaded onto a computer. Applicant has amended claim 1 to include such as taught, thereby traversing the rejection and rendering the rejection of all claims depending from claim 1 moot.

The Examiner has rejected claim 13 under 35 U.S.C. §101 for failing to tie the process to a particular apparatus. The Examiner has further rejected dependent claims 14-32 as depending from claim 15. Applicant presumes the Examiner means that such depend from claim 13.

In view of Applicant’s amendment to claim 13 discussed hereinabove, Applicant respectfully submits that the Examiner’s rejection of claim 13 is traversed and that the rejection of all claims depending from claim 13 is now moot.

The Examiner has rejected claim 42 because it is directed to non-statutory subject matter. The Examiner has also rejected claims 41-49 as depending from rejected claim 42. The Applicant presumes that the Examiner means claims 43-49.

Applicant respectfully points the Examiner to page 7, line 13-23 of the specification, which states the preferred embodiment is software loaded onto a computer. Applicant has amended claim 42 to include such. Accordingly, the Examiner's rejection of claim 42 is traversed and the rejection of all claims depending therefrom is now moot.

The Examiner has rejected claim 64 because it is not clear which statutory class the subject matter belongs.

Applicant respectfully points the Examiner to page 7, line 13-23 of the specification, which states the preferred embodiment is software loaded onto a computer. Applicant has amended claim 64 to include such. Accordingly, the rejection of claim 64 is traversed.

The Examiner has rejected claim 74 because it is not clear which statutory class the subject matter belong. The Examiner has further apparently rejected claims 75-79 as depending from claim 74.

Applicant respectfully points the Examiner to page 7, line 13-23 of the specification, which states the preferred embodiment is software loaded onto a computer. Applicant has amended claim 74 to include such. Accordingly, the rejection of claim 74 is traversed and the rejection of all claims depending from claim 74 is now moot.

§102(a) Rejection Rejections

The Examiner has rejected claims 1 and 2 under 35 U.S.C. §102(b) as anticipated by Ross (Ammunition Accounting and Management Below Retail, Jan. 2002). Applicant respectfully traverses.

Applicant respectfully asserts that Ross does not comprise each and every element present in claim 1 of the Applicants' invention. Ross "is an Army managed system that collects and process training ammunition requirements, authorizations, expenditures and related data and provides real time information on forecasting." The Examiner has overlooked that the professional journal article suggests that ammunition forecasts should be based on training events, but offers no design or methodology to accomplish such. Further, TAMIS-R does not develop forecasts as does the Applicants' invention. Under the TAMIS-R system, the user develops their training events and related ammunition forecasts outside of TAMIS-R, typically manually or with spreadsheets, and then inputs resulting number totals into TAMIS-R. These number totals from the user are what TAMIS-R calls Forecasts and Requests. TAMIS-R does not, as the Applicants' invention does, enable a user to develop training events, as claimed in claim 1, within the system, wherein the system then extracts the required ammunition. Accordingly, Applicants' invention distinguishes over the reference. As set forth in W.L. Gore and Associates v. Garlock, Inc., "anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration". W.L. Gore and Associates v. Garlock, Inc., 721 F.2d 1540 (Fed. Cir. 1984). Further, "each and every element of the claimed invention" must be "arranged as in the claim". Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452 (Fed. Cir. 1984). Here, each and every element of the Applicants' invention is not taught by the reference, and thus the Examiner's *prima facie* case for rejection is lacking. As such, the Examiner's rejection of Applicants' claim 1 is traversed and the rejection of claim 2 depending from claim 1 is now moot.

Regarding claim 2, the Examiner incorrectly assumes that Ross develops forecasts. The 'forecasts' of Ross are developed outside of Ross by the user level and then are input as manual totals into TAMIS-R. Those are what Ross considers to be forecasts and requests. The Applicant's invention enables the user to develop training events

within the system and allows precise tracking through requests, allocation and distribution (all lacking in Ross).

§103(a) Rejection Traversals

The Examiner has rejected claims 3-8 under 35 U.S.C. §103(a) as unpatentable over Ross (Ammunition Accounting and Management Below Retail, Jan. 2002) in view of Lidow (U.S. Patent 7,003,474 B2). Applicant respectfully traverses.

Applicant has amended claim 1, traversing the Examiner's rejection. Claims 3-8 depend from claim 1. Accordingly, the rejection of claims 3-8 is now moot. As stated above, Ross does not comprise all the elements of the Applicants' invention. Accordingly, Ross in combination with Lidow '474 does not render the Applicants' invention obvious because the combination still lacks every element of the Applicants' invention.

The Examiner has rejected claims 9-79 under 35 U.S.C. §103(a) as unpatentable over Ross (Ammunition Accounting and Management Below Retain, Jan. 2002) and Lidow '474 and in further view of Pure & Natural Diaper Service (www.seattlediaper.com, published 02/02/2002). Herein referred to as Pure. Applicant respectfully traverses.

As stated above, Ross does not comprise all the elements of the Applicants' invention. Even if Ross was combined with Lidow '474 and Pure, such a combination does not render the Applicants' invention obvious because the combination still lacks every element of the Applicants' invention. More particularly, Pure is non-analogous art because there is absolutely no logical reason a person would look to a diaper distributor or their technology in the design of managing ammunition for military unit training events. Those who procure and allocate ammunition are not skilled in the art of diaper inventories. The Examiner has not put forth a single convincing line of reasoning as to how or why combining diaper

inventory is analogous to including ammunition supplies from the supplier organizations into the ammunition inventories.

Furthermore, the system in Pure is solving a different problem than that which is recited in the Applicants' claims. Pure teaches the cleaning and reuse of diapers. The Applicants' invention has nothing to with the cleaning and recycling of baby diapers, nor the cleaning or reuse of ammunition. Unlike Pure, the problem the Applicant is solving is forecasting, allocation, requesting and distribution of ammunition. Accordingly, because Pure is non-analogous art, it would not be obvious to one having skill in the art of Ross or of the Applicant to look to the process of Pure, and combine the process in Ross with the non-analogous art of Pure. Thus, the combination fails to render claims 9-79 obvious.

The Applicant's invention enables the user to develop training events within the system and allows precise tracking through requests, allocation and distribution (all lacking in Ross). Further TAMIS-R does nothing for tracking physical distribution. There is no visibility on pickup, transportation, storage or turn-in, as is present in Applicant's invention.

CONCLUSION

All amendments are as to form and no new matter has been added. Applicant respectfully asserts that the claims distinguish over the references for the reasons stated and requests that the instant application be allowed to issue, since all claims herein are now in condition for allowance. Further, in view of the amendments to the independent claims, the Examiner's rejection of all independent claims and all claims depending therefrom is now moot. Otherwise, should the Examiner have any questions regarding this submission, the Examiner is invited to contact the undersigned counsel at the address or telephone number below.

{Signature follows on next page}

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Page 43 of 43

Respectfully submitted, this 24th day of OCTOBER, 2008,

A handwritten signature in black ink, appearing to read 'T. R. Williamson III', written over a horizontal line.

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